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Approved For Release 2003/08/19 : CIA-RDP82-00804R000100070003-8

OLC 79-0204

18 January 1979

MEMORANDUM FOR: See Distribution

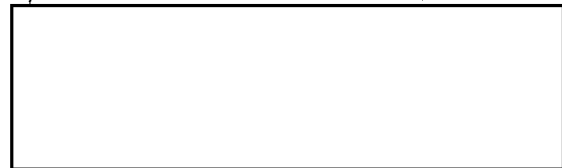
FROM :   
Chief, Legislation Staff/OLC

SUBJECT : Fiscal Year 1980 Intelligence Authorization Bill

1. The draft Intelligence Authorization Bill has been forwarded to the Office of Management and Budget and is now being circulated to other departments and agencies for comment. A copy of the Authorization Bill package, including an explanatory memorandum from the Legislative Counsel to the DCI, is attached for your information.

2. The Office of Management and Budget has instructed other departments and agencies to submit their comments by 24 January, and we expect to receive OMB clearance to forward the draft bill to the Congress shortly thereafter. In the meantime, necessary technical changes can be made in the draft bill and/or the supporting material. Please forward any suggestions along this line to me no later than COB Thursday, 25 January.

3. Concerned addressees will be receiving additional communications regarding the DCI's intention to move ahead with separate legislative initiatives on unauthorized disclosures and the Freedom of Information Act.



Attachment:  
As Stated

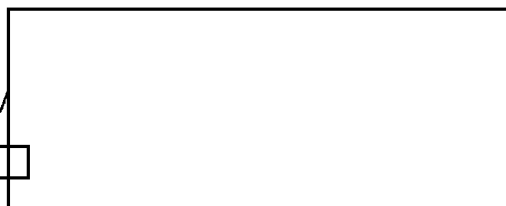
cc: OGC

DDO

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OGC Has Reviewed

CRC, 3/10/2003

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OLC: 78-3579/11

9 JAN 1979

MEMORANDUM FOR: Director of Central Intelligence

FROM: Frederick P. Hitz  
Legislative Counsel

SUBJECT: Fiscal Year 1980 Intelligence Authorization  
Bill

1. Action Requested: Your signature on the attached letter transmitting the draft FY 1980 Intelligence Authorization Bill to the Director of the Office of Management and Budget.

2. Background: Public Law 95-370, the "Intelligence and Intelligence-Related Activities Authorization Act for Fiscal Year 1979," was the first specific annual appropriations authorization for intelligence. An authorization bill for FY 1980 has been drafted by my Legislation Staff, in conjunction with the Community and Legislative Liaison Office of the Resource Management Staff, and in consultation with appropriate Agency offices. National Foreign Intelligence Community principals and legislative affairs officers were given an opportunity to participate in the development of the legislative program for the first session of the 96th Congress, and to comment on the draft authorization bill. The bill must now be submitted to the Office of Management and Budget.

3. Several specific items should be noted in connection with what the draft authorization bill does and does not contain:

--Consideration was given to retitling the bill as the "National Foreign Intelligence Authorization Act," and to making Title I read "National Foreign Intelligence Program." These changes would bring the bill more into line with the terminology of Section 1-602 of E.O. 12036 (National Foreign Intelligence Program Budget). The authorization of funds for intelligence-related activities under such a heading, however, might give

rise to an appearance of conflict with the specific exclusion of tactical intelligence from the Executive Order's definition of the National Foreign Intelligence Program [4-210(e)], and could raise questions as to whether you were attempting to take sides in the still-unresolved SSCI-Senate Armed Services Committee jurisdictional controversy about intelligence-related activities. Changing the titles and eliminating the reference to intelligence-related activities would be opposed by the HPSCI and would be likely to interject you into jurisdictional fights in both houses over a separate intelligence-related activities authorization. It would appear preferable to continue to live with some semantic inconsistency between the authorization bill and the Executive Order.

--Section 101(b) of the draft bill notes that the classified annex to the joint explanatory statement of the Conference Committee should be deemed to reflect "the intent of the Congress." This formulation is preferable to the FY 1979 Act, which declared that the classified annex should be deemed to reflect "the final action of the Congress."

--As in FY 1979, Title II of the draft bill contains a separate authorization for the Intelligence Community Staff. The Inspector General and the Office of General Counsel have questioned whether use of the term "Intelligence Community Staff" continues to be appropriate in light of the reorganization which created the Resource Management and Collection Tasking Staffs. An alternative formulation for Title II would be "Intelligence Community Staff Elements in the Office of the Director of Central Intelligence," with the accompanying Sectional Analysis and Explanation making clear that the reference was to the Resource Management and Collection Tasking Staffs. The alternative formulation might be more technically correct, but use of "Intelligence Community Staff" helps provide flexibility in allocating the appropriation between the RMS and CTS, and retention of the term is favored by the Resource Management Staff.

--The draft bill contains as titles IV, V and VI our three departmental-level legislative program initiatives: Educational Travel Benefits, Death Gratuities, and revised Firearms Authority. Consultations with SSCI and HPSCI staff indicate that there should be Congressional receptivity to use of the authorization bill as the legislative vehicle for these items.

--The draft bill does not contain two Presidential-level initiatives that were included in earlier drafts: a Freedom of Information Act Amendment, and legislation to provide criminal penalties for the unauthorized disclosure of the identities of certain individuals engaged in foreign intelligence activities. Reasons for not going forward with these initiatives in the authorization bill include the need for further refinement of specific statutory language, the Justice Department's pending study of the feasibility of a comprehensive legislative proposal on unauthorized disclosures, and signals both from the Office of Management and Budget and the Congressional oversight committee staffs of opposition to use of the authorization bill as the vehicle for these kinds of legislative initiatives. My Legislation Staff plans to have an FOIA proposal ready to go forward as a separate bill no later than 28 February; timing of our initiative on unauthorized disclosures will depend on the outcome of the Justice Department project. The attached letter informs OMB Director McIntyre that you intend to pursue these legislative program items outside the context of the authorization bill.

4. Staff Position: Appropriate Agency elements and the Resource Management Staff have been consulted in connection with the draft bill, and the Intelligence Community has had opportunity for comment.

5. Recommendation: That you sign the attached letter to OMB Director McIntyre transmitting the FY 1980 authorization bill.

SIGNED

Frederick P. Hitz

Attachments:  
As Stated

Dist.: Orig-Addressee w/atts. 1-OLC Subject w/atts.  
1-DDCI w/atts. 1-OLC Chrono w/o atts.  
1-ER w/atts.  
1-OGC (Lapham) w/atts.  
1-RMS [ ] w/atts.  
OLC:GMC:mlg (8 Jan 79)

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11 JAN 1979

Honorable James T. McIntyre, Jr., Director  
Office of Management and Budget  
Washington, D.C. 20503

Dear Mr. McIntyre:

In accordance with Office of Management and Budget Circular No. A-19, revised, I am submitting proposed legislation for your advice as to whether there is any objection to its submission to the Congress from the standpoint of the Administration's program. Enclosed are six copies of a draft "Intelligence and Intelligence-Related Activities Authorization Act for Fiscal Year 1980." Also enclosed are sectional and cost analyses, indications of changes in existing law, and draft letters of transmittal to the President of the Senate and the Speaker of the House of Representatives.

The first specific annual appropriations authorization for the nation's intelligence activities (P.L. 95-370), which was passed last year as the result of a cooperative effort on the part of the Executive Branch and the Congress, marked a significant milestone in the development of responsible Congressional oversight. The FY 1980 authorization bill will further that process and foster continued cooperation on intelligence matters in the 96th Congress.

The FY 1980 authorization bill was identified as President's Program Proposal 96-1 in my proposed Intelligence Community Legislative Program, which was forwarded to your Assistant Director for Legislative Reference on 15 November 1978 as part of the consolidated National Foreign Intelligence Program budget, in accordance with your memorandum of 18 August 1978. All of the legislative initiatives which appear as separate titles in the draft authorization

bill and which are discussed below were included in my proposed Central Intelligence Agency Legislative Program. I should also note that the National Foreign Intelligence Community participated in the formulation of these legislative programs, and that the Community was given an opportunity to comment on the draft authorization bill.

Titles I, II and III of the draft bill are essentially the same as those in the "Intelligence and Intelligence-Related Activities Authorization Act for Fiscal Year 1979;" they authorize appropriations for the conduct of the intelligence and intelligence-related activities of Intelligence Community entities, for the Intelligence Community Staff, and for the CIA Retirement and Disability System. Section 101(b) of the draft bill notes that the classified annex to the joint explanatory statement of the Conference Committee should be deemed to reflect "the intent of the Congress." This formulation is preferable to the FY 1979 Act, which declared that the classified annex should be deemed to reflect "the final action of the Congress."

Titles IV and V (CIA Program Proposal 96-4) provide authorizations for educational travel benefits for dependents of CIA employees serving overseas, and for the payment of death gratuities to the survivors of certain CIA personnel. These titles are designed to correct existing inequities and to insure that benefits available to CIA personnel serving overseas are comparable to those received by employees of other Executive Branch agencies in similar circumstances. I am aware that there is an overlap between Title IV and the legislative proposal on educational travel benefits which has been submitted by the Department of State as part of a package implementing recommendations made by the Inter-Agency Committee on Overseas Allowances and Benefits, but I believe that inclusion of Title IV in the intelligence authorization bill nevertheless remains advisable and appropriate. Full analyses of Titles IV and V are contained in the accompanying materials.

Title VI (CIA Program Proposal 96-3) amends the Central Intelligence Agency Act of 1949 to revise the statutory basis under which CIA personnel are authorized to carry firearms. This Amendment was first forwarded to you as a proposed piece of legislation on 15 November 1977. It was cleared by your Office, submitted for Congressional consideration during the second session of the 95th Congress, and forwarded to the Intelligence Oversight Committees. Although the matter is addressed in provisions of the proposed

Intelligence Charter (S. 2525/H.R. 11245), I continue to believe that legislative clarification of the Agency's firearms authority is of sufficient importance and urgency to warrant separate prompt action. A full analysis of the proposal is set forth in the accompanying materials.

Please note that I intend to forward the remaining items in my proposed legislative program separately within the next several weeks.

Yours sincerely,

SIGNED

STANSFIELD TURNER

Enclosures

STAT

Dist.:  
Orig-Addressee w/encls.  
1-DCI w/encls.  
1-DDCI w/encls.  
1-ER w/encls.  
1-OGC (Lapham) w/encls.  
1-RMS  w/encls.  
1-OLC Subject w/encls.  
1-OLC Chrono w/o encls.  
OLC:GMC:mlg (9 Jan 1979)

A Bill

To authorize appropriations for fiscal year 1980 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intelligence and Intelligence-Related Activities Authorization Act for Fiscal Year 1980".

TITLE I - INTELLIGENCE ACTIVITIES

Sec. 101. (a) Funds are hereby authorized to be appropriated for fiscal year 1980 for the conduct of the intelligence and intelligence-related activities of the following departments, agencies, and other elements of the United States Government:

- (1) The Central Intelligence Agency and the Director of Central Intelligence.
- (2) The Department of Defense.
- (3) The Defense Intelligence Agency.
- (4) The National Security Agency.
- (5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
- (6) The Department of State.
- (7) The Department of the Treasury.
- (8) The Department of Energy.
- (9) The Federal Bureau of Investigation.
- (10) The Drug Enforcement Administration.

(b) The classified annex to the joint explanatory statement prepared by the Committee of Conference to accompany the Conference Report on H.R. of the Ninety-sixth Congress shall be deemed to reflect the intent of the Congress with respect to the authorization of appropriations for fiscal year 1980 for intelligence and intelligence-related activities specified in subsection (a). Copies of such annex shall be made available to the Committees on Appropriations of the House of Representatives and the Senate and to the appropriate elements of the United States Government for which funds are authorized by this Act under subsection (a).

(c) Nothing contained in this Act shall be deemed to constitute authority for the conduct of any intelligence activity which is prohibited by the Constitution or laws of the United States.



## TITLE II - INTELLIGENCE COMMUNITY STAFF

Sec. 201. (a) There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1980 the sum of \$\_\_\_\_\_, to provide the support necessary to permit the Director of Central Intelligence to fulfill his responsibility for national intelligence collection tasking and resource management.

(b) For fiscal year 1980 the Intelligence Community Staff is authorized an end strength ceiling of \_\_\_\_\_ full-time employees. Such personnel may be permanent employees or employees on detail from other elements of the United States Government so long as they are properly counted within the ceiling and there is a mix of positions to allow appropriate representation from elements of the United States Government engaged in intelligence and intelligence-related activities. Any employee who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that an employee may be detailed on a nonreimbursable basis for a period of less than one year for performance of temporary functions as required by the Director of Central Intelligence.

(c) Except as provided in subsection (b) and until otherwise provided by law, the activities of the Intelligence Community Staff shall be governed by the Director of Central Intelligence in accordance with the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a-403j).

## TITLE III - CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Sec. 301. There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability System for the fiscal year 1980 the sum of \$\_\_\_\_\_,.

## TITLE IV - EDUCATIONAL TRAVEL BENEFITS FOR DEPENDENTS OF CENTRAL INTELLIGENCE AGENCY EMPLOYEES SERVING OVERSEAS

Sec. 401. The first sentence of paragraph 5924(4)(B) of Title 5, United States Code, is amended by striking out "or the United States Information Agency," and inserting in lieu thereof the following: ", the United States Information Agency, or the Central Intelligence Agency,".

TITLE V - DEATH GRATUITIES FOR THE SURVIVORS OF CERTAIN  
CENTRAL INTELLIGENCE AGENCY PERSONNEL

Sec. 501. (a) The Director of Central Intelligence, under such regulation as the Director may prescribe, is authorized to provide for payment of a gratuity to the surviving dependents of Central Intelligence Agency personnel who die as a result of injuries sustained in the performance of duty outside the United States, in an amount equal to one year's salary at the time of death. Any payment made under this section shall be held to have been a gift and shall be in addition to any other benefit payable from any source.

(b) A death gratuity payment under this section shall be made as follows:

- (1) First, to the widow or widower.
- (2) Second, to the child, or children in equal shares, if there is no widow or widower.
- (3) Third, to the dependent parent, or dependent parents in equal shares, if there is no widow, widower, or child.

If there is no survivor entitled to payment under this subsection, no payment shall be made.

(c) As used in this section -

(1) Each of the terms 'widow', 'child', and 'parent' shall have the same meaning given each such term by section 8101 of Title 5, United States Code; and

(2) The term 'United States' means the several States and the District of Columbia.

(d) The provisions of this section shall apply with respect to deaths occurring on or after January 1, 1973.

TITLE VI - CIA FIREARMS AUTHORITY

Sec. 601. Subsection 5(d) of the Central Intelligence Agency Act of 1949, (50 U.S.C. 403f(d)) is amended by striking out subsection 5(d) in its entirety and inserting in lieu thereof the following:

"(d) Authorize, under such regulations as the Director shall prescribe, Agency personnel, while in the discharge of their official duties, to carry firearms; Provided, that within the United States, such official duties shall include only the protection of: (i) information concerning

intelligence sources or methods, or classified intelligence documents or material; (ii) facilities, property, or any medium of exchange owned or utilized by the Agency; (iii) the Director and the Deputy Director, and other Agency personnel as may be designated by the Director or Deputy Director, such designations to be made only upon determination of the Director or Deputy Director that a specific stated exigency warrants such protective action, which is to be terminated, unless sooner renewed in the same fashion, upon expiration of the exigency or as specified in the designation order or at the end of 120 days, whichever is sooner; and (iv) defectors and foreign persons visiting the United States under Agency auspices; and Provided further, that such duties shall include the transportation and utilization of firearms for authorized training;"

TITLE IV - EDUCATIONAL TRAVEL BENEFITS FOR DEPENDENTS  
OF CENTRAL INTELLIGENCE AGENCY EMPLOYEES  
SERVING OVERSEAS

TITLE IV - EDUCATIONAL TRAVEL BENEFITS FOR DEPENDENTS  
OF CENTRAL INTELLIGENCE AGENCY EMPLOYEES  
SERVING OVERSEAS

SECTIONAL ANALYSIS AND EXPLANATION

Title IV of the draft bill amends subparagraph 5924(4)(B) of Title 5, United States Code, to extend to dependents of CIA employees serving overseas the same educational travel benefits which current 5924(4)(B) provides for dependents of Department of State and U.S.I.A. (now I.C.A.) employees serving overseas. The bill would authorize one annual trip each way for dependents from a school in the United States to the employees' place of assignment.

Higher educational facilities in many of the countries in which CIA employees serve are often unavailable or inadequate, forcing families to separate so that children can continue their education at the secondary and college level in the United States. Title IV seeks to remedy an inequitable situation by amending Section 5924 so as to make CIA families stationed overseas eligible for the same benefit already enjoyed by their State Department and ICA colleagues.

TITLE IV - EDUCATIONAL TRAVEL BENEFITS FOR DEPENDENTS  
OF CENTRAL INTELLIGENCE AGENCY EMPLOYEES  
SERVING OVERSEAS

CHANGES IN EXISTING LAW

Changes in existing law made by the draft bill are shown as follows: existing law in which no change is proposed is shown in roman; existing law proposed to be omitted is enclosed in brackets; and new matter is underscored.

GOVERNMENT ORGANIZATION AND EMPLOYEES  
Subpart D - Pay and Allowances

COST OF LIVING ALLOWANCES  
[5 U.S.C. 5924(4) (B)]

\* \* \* \* \*

(B) The travel expenses of dependents of an employee to and from a school in the United States to obtain an American secondary or undergraduate college education, not to exceed one annual trip each way for each dependent of an employee of the Department of State [or the United States Information Agency,] "the United States Information Agency, or the Central Intelligence Agency," or one trip each way for each dependent of any other employee, for the purpose of obtaining each type of education. An allowance payment under subparagraph (A) of this paragraph (4) may not be made for a dependent during the 12 months following his arrival in the United States for secondary education under authority contained in this subparagraph (B). Notwithstanding section 5921(6) of this title, travel expenses, for the purpose of obtaining undergraduate college education, may be authorized under this subparagraph (B), under such regulations as the President may prescribe, for dependents of employees who are citizens of the United States stationed in the Canal Zone.

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TITLE V - DEATH GRATUITIES FOR THE SURVIVORS OF CERTAIN  
CENTRAL INTELLIGENCE AGENCY PERSONNEL



TITLE V - DEATH GRATUITIES FOR THE SURVIVORS OF CERTAIN  
CENTRAL INTELLIGENCE AGENCY PERSONNEL

SECTIONAL ANALYSIS AND EXPLANATION

Title V of the draft bill authorizes payment of a death gratuity to the survivors of certain CIA personnel. Surviving dependents of CIA personnel who die as a result of injuries sustained in the performance of duty outside the United States would receive the benefit. The payment would be equal to one year's salary of the decedent at time of death.

Dependents are defined as (a) widow or widower; (b) child or children if there is no widow or widower; and (c) dependent parent or parents if there is no widow, widower or child. No payment would be made if none of the above-described persons existed.

The payment would be in addition to any other benefit from any source, and would be deemed to be a gift for income tax purposes. The provision would apply with respect to deaths occurring on or after 1 January 1973.

Because the potential risk of death in the overseas environment is not a function of formal CIA staff employee status, the proposed legislation is written so as to enable the Director of Central Intelligence to issue appropriate regulations with regard to the benefit's applicability to the various categories of individuals affiliated with the Agency.

Title V is designed to correct a serious inequity. Overseas service is becoming more hazardous for personnel of all U.S. agencies. CIA personnel often serve in particularly dangerous circumstances, and they are especially attractive targets (and indeed have been targets) for terrorist groups and extremist organizations. The survivors of Foreign Service employees who die as a result of injuries sustained in the performance of duty outside the United States have been entitled to a death gratuity payment in the amount of one year's salary of the decedent at the time of death since 1 January 1973. Under a 1977 Amendment to 22 United States Code 2679a(d), survivors of Foreign Service Alien Employees were made eligible for the death gratuity benefit retroactively to 1 August 1974.

TITLE V - DEATH GRATUITIES FOR THE SURVIVORS OF CERTAIN  
CENTRAL INTELLIGENCE AGENCY PERSONNEL

CHANGES IN EXISTING LAW

The proposed legislation grants new authority to the  
Director of Central Intelligence.

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TITLE VI - CIA FIREARMS AUTHORITY

SECTIONAL ANALYSIS AND EXPLANATION

Title VI of the draft bill would amend subsection 5(d) of the Central Intelligence Agency Act of 1949 to further the Agency's foreign intelligence mission, and to assist in the implementation of the duty of the Director of Central Intelligence, under the National Security Act of 1947, to protect intelligence sources and methods from unauthorized disclosure.

Section 5(d) now provides that Agency "couriers and guards" are authorized to carry firearms "when engaged in transportation of confidential documents and materials." The amendment would authorize Agency personnel to carry firearms while in the discharge of their official duties without geographic limitations, but it provides that within the United States firearms may be carried only for certain specified purposes, that is: to protect (i) information concerning intelligence sources or methods or classified intelligence documents or material; (ii) facilities, property, or any medium of exchange owned or utilized by the Agency; (iii) the Director and the Deputy Director, and other Agency personnel as may be designated by the Director or Deputy Director when exigent circumstances dictates; and (iv) defectors and other foreign persons visiting the United States under Agency auspices. In addition, the bill would allow Agency personnel to transport and utilize firearms for authorized training.

The proposed amendment arises out of concern over the ability of the Agency's existing statutory authority to support current needs. Legislative clarification of the Agency's authority in this area is necessary to resolve issues relating to the scope of authority of Agency personnel who may be forced to use firearms, and thereby risk exposure to possible civil or criminal liability, or both. There are circumstances not clearly covered by present statutory authority in which Agency personnel need authority to carry and use firearms. These include, for example, the protection of documents

and materials which are not being transported, the protection of certain Agency facilities from physical penetration, the protection of certain Agency personnel, and of defectors or foreign persons visiting the United States under Agency auspices who may be targets of assassination or abduction attempts.

There are a number of provisions that authorize designated personnel of other federal agencies to carry firearms for purposes associated with agency functions. 22 U.S.C. 2666, for example, allows the Secretary of State to authorize security officers to carry firearms for the protection of distinguished visitors to the United States, the Secretary himself, and other persons. 10 U.S.C. 1585 allows the Secretary of Defense to authorize civilian officers and employees of the Department of Defense to carry firearms while assigned to investigative or other duties the Secretary may prescribe. 42 U.S.C. 2456 authorizes the Administrator of the National Aeronautics and Space Administration to "direct such of the officers and employees of the Administration as he deems necessary in the public interest to carry firearms while in the conduct of their official duties." The circumstances under which the draft bill would permit Agency personnel to carry firearms are more narrowly defined than in some of these statutes.

TITLE VI - CIA FIREARMS AUTHORITY

CHANGES IN EXISTING LAW

Changes in existing law made by the draft bill are shown as follows: existing law in which no change is proposed is shown in roman; existing law proposed to be omitted is enclosed in brackets; and new matter is underscored.

CENTRAL INTELLIGENCE AGENCY ACT OF 1949, As Amended  
(50 U.S.C.A. 403a-j)

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GENERAL AUTHORITIES

SEC. 5. In the performance of its functions, the Central Intelligence Agency is authorized to--

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(d) Authorize [couriers and guards designated by the Director to carry firearms when engaged in transportation of confidential documents and materials affecting the national defense and security:] under such regulations as the Director shall prescribe, Agency personnel, while in the discharge of their official duties, to carry firearms; Provided, that within the United States, such official duties shall include only the protection of:  
(i) information concerning intelligence sources or methods or classified intelligence documents or material;  
(ii) facilities, property, or any medium of exchange owned or utilized by the Agency; (iii) the Director and the Deputy Director and other Agency personnel as may be designated by the Director or Deputy Director, such designations to be made only upon determination of the Director or Deputy Director that a specific stated exigency warrants such protective action which is to be terminated, unless sooner renewed in the same fashion, upon expiration of the exigency or as specified in the designation order or at the end of 120 days, whichever is sooner; and (iv) defectors and foreign persons visiting the United States under Agency auspices; and Provided further, that such duties shall include the transportation and utilization of firearms for authorized training;"

TITLE VI - CIA FIREARMS AUTHORITY

COST ANALYSIS

This legislation would not involve any measurable costs. No additional expenditures on firearms or on training are contemplated beyond existing levels.